

for the

JOHN DOE 52

**Y.**

Mayo Clinic Health System - Eau Claire Clinic,  
Inc., David A. Van de Loo, MD, et al.

Case No.: 14-CV-387

Judgment having been entered in the above entitled action on 04/07/2015 against plaintiff  
*Date*  
*the Clerk is requested to tax the following as costs:*

**SPECIAL NOTE:** Attach to your bill an itemization and documentation for requested costs in all categories.

I declare under penalty of perjury that the foregoing costs are correct and were necessarily incurred in this action and that the services for which fees have been charged were actually and necessarily performed. A copy of this bill has been served on all parties in the following manner:

4

### Electronic service



First class mail, postage prepaid



Other:

s/ Attorney: Guy DuBeau

Name of Attorney: Guy DuBeau

For: Mayo Clinic Health System - Eau Claire Clinic, Inc.  
Name of Claiming Party

Date: 04/07/2015

Costs are taxed in the amount of \$ 4,322.58

and included in the judgment.

Peter Oppenheimer  
Clerk of Court

By:

*Deputy Clerk*

5/26/15  
Date

UNITED STATES DISTRICT COURT

Witness Fees (computation, cf. 28 U.S.C. 1821 for statutory fees)							
NAME , CITY AND STATE OF RESIDENCE	ATTENDANCE		SUBSISTENCE		MILEAGE		Total Cost Each Witness
	Days	Total Cost	Days	Total Cost	Miles	Total Cost	
							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
					TOTAL		\$0.00

## NOTICE

**Section 1924, Title 28, U.S. Code (effective September 1, 1948) provides:**

"Sec. 1924. Verification of bill of costs."

"Before any bill of costs is taxed, the party claiming any item of cost or disbursement shall attach thereto an affidavit, made by himself or by his duly authorized attorney or agent having knowledge of the facts, that such item is correct and has been necessarily incurred in the case and that the services for which fees have been charged were actually and necessarily performed."

**See also Section 1920 of Title 28, which reads in part as follows:**

"A bill of costs shall be filed in the case and, upon allowance, included in the judgment or decree."

**The Federal Rules of Civil Procedure contain the following provisions:**

**RULE 54(d)(1)**

**Costs Other than Attorneys' Fees.**

Unless a federal statute, these rules, or a court order provides otherwise, costs — other than attorney's fees — should be allowed to the prevailing party. But costs against the United States, its officers, and its agencies may be imposed only to the extent allowed by law. The clerk may tax costs on 14 day's notice. On motion served within the next 7 days, the court may review the clerk's action.

## RULE 6

(d) **Additional Time After Certain Kinds of Service.**

When a party may or must act within a specified time after service and service is made under Rule 5(b)(2)(C), (D), (E), or (F), 3 days are added after the period would otherwise expire under Rule 6(a).

**RULE 58(e)**

**Cost or Fee Awards:**

Ordinarily, the entry of judgment may not be delayed, nor the time for appeal extended, in order to tax costs or award fees. But if a timely motion for attorney's fees is made under Rule 54(d)(2), the court may act before a notice of appeal has been filed and become effective to order that the motion have the same effect under Federal Rule of Appellate Procedure 4(a)(4) as a timely motion under Rule 59.

John Doe 52 v. Mayo Clinic Health System-Eau Claire Clinic, Inc. et al  
14-cv-387-wmc

### **NOTES TO CLERK'S TAXATION OF COSTS**

Plaintiff's main objection to the Bill of Costs is that defendants should have simply waited on a ruling on their motion to dismiss. However, discovery was not stayed pending the Court's ruling on the motion. It is unreasonable to expect counsel to stop obtaining discovery to defend their client due to a pending motion. More than half of the depositions were noticed by plaintiff. Obviously, no party was confident that the Court's ruling would be in their favor. The Court set specific discovery deadlines that parties were expected to meet. Continuing to obtain discovery by ordering deposition transcripts was reasonable and therefore recoverable under 28 U.S.C. § 1920. The costs requested are reasonable and plaintiff's objections are overruled.